

Senate Bill No. 1769

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 60200 of, and add Section 60200.7 to, the Education Code, relating to instruction, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1769, Escutia. Instructional materials.

(1) Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to certain requirements.

This bill would require the 2008 Reading/Language Arts/English Language Development Curriculum Frameworks and Criteria adopted by the state board on April 17, 2006, to include the accelerated English program, as defined, established under the bill.

The bill would require the state board, commencing with the 2008 Reading/Language Arts/English Language Development Curriculum Frameworks and Criteria adoption cycle, to allow publishers to submit for adoption as a basic core program under the accelerated English program established under the bill, instructional materials that conform to the criteria for the accelerated English program.

The bill would appropriate the sum of \$1,579,000 from the General Fund to the Department of Education for the purpose of funding 9.2 positions in support of the state board.

The bill would prohibit the appropriation from being expended to increase the positions in support of the state board beyond the total number of positions that were proposed for the state board in the 2006–07 Governor's Budget.

(2) This bill would incorporate additional changes in Section 60200 of the Education Code proposed by AB 2722, that would become operative only if AB 2722 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California has established high academic expectations for all of California's 6,200,000 pupils by establishing and adopting academically rigorous content standards in the core curricular areas, including English Language Arts.

(b) It is the intent of the Legislature that school districts be provided with as many standards-aligned instructional material options as possible, so that educators may have many rigorous options in choosing the best materials for ensuring that their pupils are able to master California's world class academic content standards.

(c) It is also the intent of the Legislature that the state's 1,600,000 English language learner pupils learn English as quickly as possible. To accomplish this goal, it is the intent of the Legislature to provide school districts with quality instructional materials written and taught in English to accelerate English acquisition for English language learners while upholding and teaching California's English Language Arts content standards.

SEC. 2. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading.

(2) Mathematics.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) not less than two times every six years and in any of the subject areas pursuant to paragraph (6) of subdivision (a) not less than two times every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with the six- and eight-year submission cycles and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c) and Section 60200.7. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Adequately cover the subject area for the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of Chapter 1181 of the Statutes of 1989, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any

subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the board for continuing items on that list shall be the earlier of not more than six years from the date of adoption for instructional materials pertaining to subject areas designated in paragraphs (1) to (5), inclusive, of subdivision (a), and not more than eight years from the date of adoption for instructional materials pertaining to subject areas designated in paragraph (6) of subdivision (a), or the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of

adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(l) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 2.5. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(2) Mathematics. However, the state board may not adopt basic instructional materials in this category or the category specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) (A) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) not less than two times every six years and in any of the subject areas pursuant to paragraph (6) of subdivision (a) not less than two times every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with the six- and eight-year submission cycles and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c) and Section 60200.7. The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(B) A local educational agency may continue to use the instructional materials adopted in mathematics after January 1, 2001, and adopted in language arts after January 1, 2002, for not more than two years following the sixth year after the adoption, provided that the local educational agency certifies by resolution, in accordance with subparagraph (A) of paragraph (1) of

subdivision (a) of Section 60119, that each pupil has been provided with the adopted materials and that the materials are in serviceable condition for continued use. The local educational agency shall also certify in its resolution all of the following findings regarding the instructional materials proposed for continued use:

- (i) They are available to each pupil.
- (ii) They are in serviceable condition.
- (iii) They are aligned to the state content standards.
- (iv) They are appropriate in the context of confirmed scientific research.

(2) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1), unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Adequately cover the subject area for the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the board determines that the use of the commercial brand name, product,

or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of Chapter 1181 of the Statutes of 1989, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months prior to the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based upon one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the commission or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the board for continuing items on that list shall be the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary

lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(l) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 3. Section 60200.7 is added to the Education Code, to read:

60200.7. (a) For the purposes of this section, the following terms have the following meanings, unless the context clearly requires otherwise:

(1) “Accelerated English program” means the basic comprehensive English language development literacy program for English language learners established under this section.

(2) “Frameworks and criteria” means the 2008 Reading/Language Arts/English Language Development Curriculum Frameworks and Criteria adopted by the state board on April 17, 2006.

(b) Notwithstanding any other provision of law, the frameworks and criteria shall include the accelerated English program as Program Option VI.

(c) The goal of the accelerated English program shall be to accelerate the acquisition of English speaking, reading, writing, and comprehension skills by pupils who are English language learners.

(d) The accelerated English program shall conform to all of the following:

(1) Be added to the frameworks and the instructional materials evaluation criteria as a basic core program that requires instructional materials written in English to be aligned to both the English language arts standards adopted under Section 60605 and the English language development standards adopted under Section 60811.

(2) Provide comprehensive guidance for teachers in kindergarten and in grades 1 to 8, inclusive, in providing effective, efficient, explicit, sequential, linguistically logical, and systematic instruction to promote mastery of the skills in the English language arts content standards by utilizing the English language development standards and benchmark assessments.

(3) Be designed to accelerate the acquisition of English speaking, reading, writing, and comprehension skills by pupils who are English language learners.

(4) Be designed to be a comprehensive English language arts and English language development program designed specifically for pupils who are English language learners in kindergarten and grades 1 to 8, inclusive, whose proficiency in English is at the beginning through advanced levels, as measured by the California English Language Development Test developed or acquired under Section 60810.

(5) Be a stand-alone program that is enriched, scaffolded, and amplified, is aligned to the standards adopted according to Sections 60605 and 60811, and simultaneously develops listening, speaking, reading, and writing skills in English.

(e) The accelerated English program shall not be submitted as partial or supplemental resources.

(f) The accelerated English program shall incorporate principles of universal access and research-based instructional design as well as provide instructional content for a minimum of 180 days of instruction for suggested minimal daily time periods consistent with other English language arts basic core instructional programs. The accelerated English program shall also provide for program organization, assessment, universal access, instructional planning and support, consistent with other English language arts basic core instructional programs.

(g) Notwithstanding any other provision of law, the state board may adopt instructional materials pursuant to the frameworks and criteria, including materials submitted pursuant to the accelerated English program, 30 months after the adoption of the frameworks and criteria. It is the intent of the Legislature that any instructional materials submitted under this section conform to the same timeline and procedures as the other program options included within the frameworks and criteria.

(h) Commencing with the 2008 Reading/Language Arts/English Language Development Curriculum Frameworks and Criteria adoption cycle, the state board shall allow publishers to submit for adoption as a basic core program instructional materials for the accelerated English program that conform with subdivisions (d), (e), and (f).

(i) It is the intent of the Legislature that the accelerated English program be designed for use in schools or classrooms where the great majority of students are English language learners.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 60200 of the Education Code proposed by both this bill and AB 2722. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 60200 of the Education Code, and (3) this bill is enacted after AB 2722, in which case Section 2 of this bill shall not become operative.

SEC. 5. (a) The sum of one million five hundred seventy-nine thousand dollars (\$1,579,000) is hereby appropriated from the General Fund to the Department of Education for the purpose of funding 9.2 positions in support of the State Board of Education.

(b) The appropriation made under this section may not be expended to increase the positions in support of the state board beyond the total number of positions that were proposed for the state board in the 2006–07 Governor’s Budget.

Approved _____, 2006

Governor